

very ground upon which the decision in *In re White* was based. Had this been a gift of the Island house, it might well have been argued that the motor-boat was necessary to enable the devisee of that house to occupy it as it had been used by the testator in his lifetime; but the motor-boat in no sense was in any way pertinent to or used for the enjoyment of the city residence.

The learned Judge preferred to follow the decision of Latchford, J., in *Re Greenshields* (1914), 6 O.W.N. 303, that an automobile did not pass under words indistinguishable from those now in question, and that other articles of household use and adornment must be held to relate to things *ejusdem generis* with those specifically enumerated—plate, linen, glass, books, etc. The motor-boat fell, like the summer residence, into the residuary gift; and this appeared to be in accordance with the testator's intention. The residuary clause was not a mere sweeping up of unconsidered trifles, but was intended to carry the summer residence, and it was most improbable that the intention was to separate the boat from it.

The executors should have their costs out of the estate, and so should the Official Guardian, but other costs should not be awarded against those who succeed, which would be the effect of a direction to pay them out of the estate.

LENNOX, J.

APRIL 30TH, 1920.

BROWN v. COLEMAN DEVELOPMENT CO.

*Judgment—Report of Official Referee—Reference for Trial of Action
—Necessity for Motion for Judgment—Judicature Act, secs.
65, 67—Costs.*

Motion by the plaintiff for judgment on the report of J. A. C. CAMERON, an Official Referee.

The motion was heard in the Weekly Court, Toronto.

D. C. Ross, for the plaintiff.

W. J. McCallum, for the defendant Gillies.

LENNOX, J., in a written judgment, said that what the plaintiff sought was an order for judgment. The motion was opposed only upon the ground that it was unnecessary—primarily a question of costs—but, as a large amount was involved, and the title to land might ultimately depend upon or be affected by the regularity